

Mississippi Electronic Courts
Second Circuit Court District of Mississippi (Harrison Circuit Court - Biloxi)
CIVIL DOCKET FOR CASE #: 24CI2:21-cv-00086

Pique, Jr. v. United Fire & Casualty Company (Foreign Corp.)
Assigned to: Judge Lisa P. Dodson

Date Filed: 05/21/2021
Current Days Pending: 32
Total Case Age: 32
Jury Demand: None
Nature of Suit: 176 Bad Faith

Upcoming Settings:

None Found

Plaintiff

Elmer Pique, Jr.
495 Popps Ferry Road, Unit 12
Biloxi, MS 39531

represented by **Mariano Javier Barvie'**
Hopkins, Barvie' & Hopkins, PLLC
2701 24th Avenue
Post Office Box 1510
GULFPORT, MS 39501
228-864-2200
Fax: 228-868-9358
Email: mbarvie@hopkins-law.com
ATTORNEY TO BE NOTICED

V.

Defendant

United Fire & Casualty Company
(Foreign Corp.)
R.A., Sharon P. Thibodeaux
645 Lakeland E. Dr., Suite 101
Flowood, MS 39232

Date Filed	#	Docket Text
05/21/2021	<u>1</u>	COMPLAINT against United Fire & Casualty Company (Foreign Corp.), filed by Elmer Pique, Jr.. (Attachments: # <u>1</u> Civil Cover Sheet,) (Davis, April) (Entered: 05/21/2021)
05/21/2021	<u>2</u>	SUMMONS Issued to United Fire & Casualty Company (Foreign Corp.). (Davis, April) (Entered: 05/21/2021)

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EXHIBIT
"A"

Description:	Docket Report	Search Criteria:	24CI2:21-cv-00086
Billable Pages:	1	Cost:	0.20

**IN THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT**

ELMER PIQUE, JR.

PLAINTIFF

VERSUS

CAUSE NO.: 24CI2-2021-090

UNITED FIRE & CASUALTY COMPANY

DEFENDANT

**COMPLAINT
JURY TRIAL REQUESTED**

COMES NOW Plaintiff, ELMER PIQUE, JR. (hereinafter "Plaintiff"), by and through counsel of record, Hopkins, Barvié & Hopkins, P.L.L.C, and file this his Complaint against the Defendant, UNITED FIRE & CASUALTY COMPANY (hereinafter "United Fire"), and in support of said claim for relief would show unto this Honorable Court the following facts, to-wit:

1.

Plaintiff, Elmer Pique, Jr. is an adult presently residing at 495 Popps Ferry Road, Unit 12 Biloxi, MS 39531.

2.

That the Defendant, United Fire & Casualty Company is a foreign insurance company doing business within the State of Mississippi, with its home office located at 118 Second Avenue S.E., Cedar Rapids, IA 52401. United Fire may be served with this Complaint which may be served through its agent for service of process, Sharon Patterson Thibodeaux, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.

FILED
MAY 21 2021
Connie Ladner
Circuit Clerk
BY: _____ D.C.

3.

Personal jurisdiction and venue is proper within Harrison County, Mississippi, Second Judicial District, as this is the County in which the Plaintiff lives, and the Contract was entered into for uninsured benefits.

4.

On or about June 10, 2018, Plaintiff, Elmer Pique, Jr. was a restrained back seat passenger, traveling in a vehicle in Waller County, Texas. A vehicle driven by Jeramie Jones was traveling northbound on Buller Road, approaching Garret Road. The vehicle Mr. Pique was traveling in was southbound on Buller Road after turning from Garrett Road. Mr. Jones entered a sharp, right-hand turn while traveling at a speed that was unsafe for the conditions of the road, causing his vehicle to lose control. Mr. Jones began traveling northbound in the southbound lane, then began to fish-tail across the roadway, and lost control of his vehicle and collided with the vehicle in which Mr. Pique was a passenger, causing Mr. Pique's vehicle to roll over on its right side. As a result of the underinsured motorist's negligent driving, and failing to keep his vehicle under control, Mr. Pique suffered significant injuries.

5.

Plaintiff would show that at the time of the subject accident, the vehicle being operated by Jeramie Jones was an uninsured/underinsured vehicle within the meaning of §83-11-103, of the Mississippi Code of 1972 (Annotated), more specifically, §83-11-103(c)(iii).

6.

Plaintiff would further allege that prior to June 10, 2018, the Defendant, United Fire had issued uninsured/underinsured motorist coverage to Unique Collision Center, Inc., the insured, under Policy No. [85031021] under which Plaintiff was covered.

7.

Plaintiff would further show that said policy was in full force and effect at the time of the collision alleged herein and insured the Plaintiff against losses or damages arising out of the operation of the vehicle he was traveling in. That under the terms of the policy, the Defendant, United Fire, among other things, promised to pay for damages incurred by drivers or passengers of the vehicle in which the Plaintiff was a passenger as a result of the negligence of an underinsured motorist.

8.

That under the terms of the policy, the Defendant, United Fire, among other things, promised to pay damages or medical expenses incurred under the medical payments coverage in the policy. Pursuant to the policy language, all the Plaintiff had to show United Fire was that he was injured as a result of a car wreck, and that the wreck was not his fault.

9.

Within one year of the date the wreck, and prior to three years from the date of the wreck, the Plaintiff reported injuries (as a result of the wreck of June 10, 2018) to United Fire.

10.

The Plaintiff would further show that United Fire was put on notice of the claim for medical payments coverage and uninsured/underinsured motor coverage, along with supporting evidence of same within three years of the date of the accident.

COUNT ONE
UNINSURED MOTORIST CLAIM

11.

Plaintiff hereby realleges and incorporates each and every preceding paragraph as if fully set forth herein in this cause of action, and further alleges as follows:

12.

Plaintiff would further show that, upon information and belief, at all material times mentioned herein, that the vehicle operated by Jeramie Jones was uninsured/underinsured within the meaning of §83-11-103 of the Mississippi Code of 1972 (Ann.).

13.

Plaintiff would show that as a result of the negligent actions of Jeramie Jones, Plaintiff, Elmer Pique, Jr., suffered pain and injuries of lacerations to his face to include his nose and left ear, posterior head, right lip, left shoulder, right elbow, left leg, and left sided rib pain. He also received 2 splenic lacerations and had 4 left-sided rib fractures, fractures of lower thoracic spine and lumbar fractures. Plaintiff would further show that as a direct result of this wreck, he has incurred medical bills in the amount of \$103,754.87. Plaintiff would further show that the tortfeasor was underinsured, and has tendered the policy limits of \$25,000.00 under his policy. Plaintiff would further show that he gave timely notice of his underinsured motorist claim, and sought and received

waiver of subrogation interest from United Fire prior to resolving his claim with the tortfeasor. That United Fire has tendered the amount of \$250,000.00 in underinsured benefits unconditionally. There are remaining benefits which Plaintiff is entitled under the policy of insurance.

14.

Plaintiff would show that all of the aforesaid are as a direct result of the negligent actions of the uninsured/underinsured owner and/or operator of the uninsured/underinsured vehicle and that all sums of money which the Plaintiff contends are due and owing are binding contractual obligations upon the Defendant which the Defendant should be required to pay pursuant to the terms and provisions of the subject policies.

15.

DAMAGES

Plaintiff hereby realleges and incorporates each and every preceding paragraph as if fully set forth herein in this cause of action, and further alleges as follows:

16.

As a result of Defendant's actions, Plaintiff is entitled to the following damages:

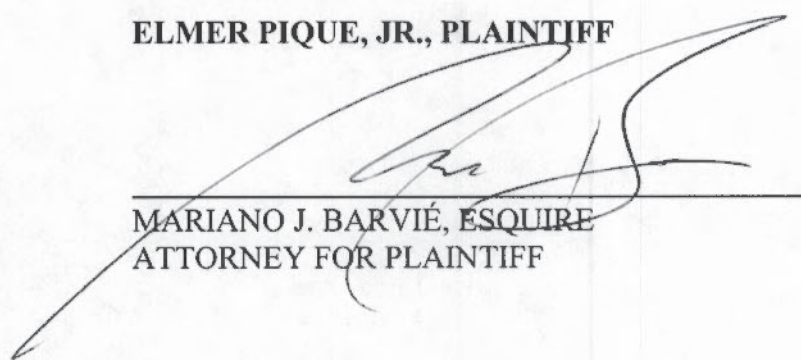
- a. Compensatory damages;
- b. Actual damages;
- c. Pre and post-judgment interest, and
- d. Any other damages deemed allowable by this court.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Elmer Pique, Jr. prays that this Complaint be received and filed, and that upon a trial by jury of this cause, a Judgment be entered against the Defendant for the remaining benefits due and owed under the policy of uninsured

motorist coverage. Plaintiff further prays that if he recovers contractual damages at trial, that he is entitled to pre-judgment interest on said amount at a rate of eight percent (8%) per annum.

RESPECTFULLY SUBMITTED, this the 19th day of May, 2021.

ELMER PIQUE, JR., PLAINTIFF



MARIANO J. BARVIÉ, ESQUIRE
ATTORNEY FOR PLAINTIFF

HOPKINS, BARVIÉ & HOPKINS, P.L.L.C.
MARIANO J. BARVIÉ, ESQUIRE
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(228) 868-9358 FAX
mbarvie@hopkins-law.com

COVER SHEET		Court Identification Docket #		Case Year	Docket Number	
Civil Case Filing Form (To be completed by Attorney/Party Prior to Filing of Pleading)		<div style="border: 1px solid black; padding: 2px;">24</div> County #	<div style="border: 1px solid black; padding: 2px;">2</div> Judicial District	<div style="border: 1px solid black; padding: 2px;">CI</div> Court ID (CH, CI, CO)	<div style="border: 1px solid black; padding: 2px;">2021</div> Case Year	<div style="border: 1px solid black; padding: 2px;">01</div> Docket Number
		<div style="border: 1px solid black; padding: 2px;">05</div> Month	<div style="border: 1px solid black; padding: 2px;">21</div> Date	<div style="border: 1px solid black; padding: 2px;">21</div> Year	<div style="border: 1px solid black; padding: 2px;">LPD</div> Local Docket ID	
Mississippi Supreme Court		Form AOC/01		Case Number if filed prior to 1/1/94		
Administrative Office of Courts		(Rev 2020)		This area to be completed by clerk		
In the <u>CIRCUIT</u>		Court of <u>HARRISON</u>		County — <u>SECOND</u>		Judicial District
Origin of Suit (Place an "X" in one box only)						
<input checked="" type="checkbox"/> Initial Filing <input type="checkbox"/> Reinstated <input type="checkbox"/> Foreign Judgment Enrolled <input type="checkbox"/> Transfer from Other court <input type="checkbox"/> Other <input type="checkbox"/> Remanded <input type="checkbox"/> Reopened <input type="checkbox"/> Joining Suit/Action <input type="checkbox"/> Appeal						
Plaintiff - Party(ies) Initially Bringing Suit Should Be Entered First - Enter Additional Plaintiffs on Separate Form						
Individual <u>PIQUE</u> <u>ELMER</u> <u>JR.</u> <div style="display: flex; justify-content: space-between;"> Last Name First Name Maiden Name, if applicable M.I. Jr/Sr/III/IV </div>						
Check (x) if Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____ Estate of _____						
Check (x) if Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: _____ D/B/A or Agency _____						
Business _____ Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated						
Check (x) if Business Plaintiff is filing suit in the name of an entity other than the above, and enter below: _____ D/B/A _____						
Address of Plaintiff <u>495 Popp's Ferry Road, Unit 12 Biloxi, MS 39531</u>						
Attorney (Name & Address) <u>Mariano J. Barvie', P. O. Box 1510, Gulfport, MS 39502</u> MS Bar No. <u>10324</u>						
Check (x) if Individual Filing Initial Pleading is NOT an attorney						
Signature of Individual Filing: _____						
Defendant - Name of Defendant - Enter Additional Defendants on Separate Form						
Individual _____ <div style="display: flex; justify-content: space-between;"> Last Name First Name Maiden Name, if applicable M.I. Jr/Sr/III/IV </div>						
Check (x) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____ Estate of _____						
Check (x) if Individual Defendant is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: _____ D/B/A or Agency _____						
Business <u>UNITED FIRE & CASUALTY COMPANY (FOREIGN CORP.)</u> Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated						
Check (x) if Business Defendant is acting in the name of an entity other than the above, and enter below: _____ D/B/A <u>address: R.A., Sharon P. Thibodeaux, 645 Lakeland E. Dr., Suite 101, Flowood, MS 39232</u>						
Attorney (Name & Address) - If Known _____ MS Bar No. _____						
Check (x) if child support is contemplated as an issue in this suit.* *If checked, please submit completed Child Support Information Sheet with this Cover Sheet						
Nature of Suit (Place an "X" in one box only)						
Domestic Relations		Business/Commercial		Children/Minors - Non-Domestic		Real Property
<input type="checkbox"/> Child Custody/Visitation <input type="checkbox"/> Child Support <input type="checkbox"/> Contempt <input type="checkbox"/> Divorce: Fault <input type="checkbox"/> Divorce: Irreconcilable Diff. <input type="checkbox"/> Domestic Abuse <input type="checkbox"/> Emancipation <input type="checkbox"/> Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Property Division <input type="checkbox"/> Separate Maintenance <input type="checkbox"/> Term. of Parental Rights-Chancery <input type="checkbox"/> UIFSA (eff 7/1/97; formerly URESA) <input type="checkbox"/> Other _____		<input type="checkbox"/> Accounting (Business) <input type="checkbox"/> Business Dissolution <input type="checkbox"/> Debt Collection <input type="checkbox"/> Employment <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Replevin <input type="checkbox"/> Other _____		<input type="checkbox"/> Adoption - Contested <input type="checkbox"/> Adoption - Uncontested <input type="checkbox"/> Consent to Abortion <input type="checkbox"/> Minor Removal of Minority <input type="checkbox"/> Other _____		<input type="checkbox"/> Adverse Possession <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Eviction <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Lien Assertion <input type="checkbox"/> Partition <input type="checkbox"/> Tax Sale: Confirm/Cancel <input type="checkbox"/> Title Boundary or Easement <input type="checkbox"/> Other _____
Appeals		Probate		Civil Rights		Torts
<input type="checkbox"/> Administrative Agency <input type="checkbox"/> County Court <input type="checkbox"/> Hardship Petition (Driver License) <input type="checkbox"/> Justice Court <input type="checkbox"/> MS Dept Employment Security <input type="checkbox"/> Municipal Court <input type="checkbox"/> Other _____		<input type="checkbox"/> Accounting (Probate) <input type="checkbox"/> Birth Certificate Correction <input type="checkbox"/> Mental Health Commitment <input type="checkbox"/> Conservatorship <input type="checkbox"/> Guardianship <input type="checkbox"/> Joint Conservatorship & Guardianship <input type="checkbox"/> Heirship <input type="checkbox"/> Intestate Estate <input type="checkbox"/> Minor's Settlement <input type="checkbox"/> Muniment of Title <input type="checkbox"/> Name Change <input type="checkbox"/> Testate Estate <input type="checkbox"/> Will Contest <input type="checkbox"/> Alcohol/Drug Commitment (Involuntary)		<input type="checkbox"/> Elections <input type="checkbox"/> Expungement <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Post Conviction Relief/Prisoner <input type="checkbox"/> Other _____		<input checked="" type="checkbox"/> Bad Faith <input type="checkbox"/> Fraud <input type="checkbox"/> Intentional Tort <input type="checkbox"/> Loss of Consortium <input type="checkbox"/> Malpractice - Legal <input type="checkbox"/> Malpractice - Medical <input type="checkbox"/> Mass Tort <input type="checkbox"/> Negligence - General <input type="checkbox"/> Negligence - Motor Vehicle <input type="checkbox"/> Premises Liability <input type="checkbox"/> Product Liability <input type="checkbox"/> Subrogation <input type="checkbox"/> Unlawful Death <input type="checkbox"/> Other _____
		Contract		Statutes/Rules		
		<input type="checkbox"/> Breach of Contract <input type="checkbox"/> Installment Contract <input type="checkbox"/> Insurance <input type="checkbox"/> Specific Performance <input type="checkbox"/> Other _____		<input type="checkbox"/> Bond Validation <input type="checkbox"/> Civil Forfeiture <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction or Restraining Order <input type="checkbox"/> Other _____		

IN THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT

ELMER PIQUE, JR.

PLAINTIFF

VERSUS

CAUSE NO.: H2402-2021-0800

UNITED FIRE & CASUALTY COMPANY

DEFENDANT

S U M M O N S

TO: United Fire & Casualty Company OR WHEREVER FOUND
Registered Agent, Sharon Patterson Thibodeaux
645 Lakeland East Drive, Suite 101
Flowood, MS 39232.

NOTICE TO DEFENDANT

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND
YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written Answer either admitting or denying each allegation in the Complaint to **Mariano J. Barvié, Esq. with the law firm of Hopkins, Barvié, & Hopkins, P.L.L.C., whose address is Post Office Box 1510, Gulfport, Mississippi 39502.** THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY DAYS FROM THE DATE OF DELIVERY OF THIS SUMMONS AND COMPLAINT OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT PREVIOUSLY FILED.

You must also file the original of your Answer with the Clerk of this Court within a reasonable time afterward.

Connie Ladner, County Court Clerk
Harrison County, Mississippi
Second Judicial District
Post Office Box 235
Biloxi, MS 39533

DATED: 5/21/2021

By: [Signature]
DEPUTY

